

Senate Bill 460

By: Senators Heath of the 31st, Stoner of the 6th, Tate of the 38th, Schaefer of the 50th and Smith of the 52nd

AS PASSED

AN ACT

To amend Chapter 14 of Title 47 of the Official Code of Georgia Annotated, relating to the Superior Court Clerks' Retirement Fund of Georgia, so as to provide that membership dues in such fund shall be due on the first day of each month; to provide that no creditable service shall be granted for months in which dues payments are in arrears; to provide that a certain percentage of fines and forfeitures shall be due on the first day of each month; to provide a penalty for late payment; to provide that a certain amount collected in certain civil actions and for the recording of certain real estate instruments shall be due on the first day of the month; to provide for a penalty for late payments; to provide that the board of commissioners of such retirement fund shall be authorized to provide for a surviving spouse's benefit in the event of the death of a member who would be eligible to receive a retirement benefit but for reaching the age of 55; to provide conditions under which such benefit may be granted; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 14 of Title 47 of the Official Code of Georgia Annotated, relating to the Superior Court Clerks' Retirement Fund of Georgia, is amended by revising Code Section 47-14-40, relating to application for membership in the fund, payments by members into the fund, and penalties for late payments, as follows:

"47-14-40.

(a) Any clerk, in order to participate in the benefits provided for in this chapter, shall make application to the Superior Court Clerks' Retirement Fund of Georgia upon forms to be furnished for that purpose by the board, giving such information as may be required by the board. He or she shall pay \$50.00 per month into the fund. All clerks who made application and are accepted for membership in the fund shall remit to the board, not later than the tenth day of each subsequent month, the amount due under this subsection.

(b) If any payment required to be made to the fund by a clerk remains unpaid 60 days from the date such payment is due, there shall also be due a late charge, which late charge shall be interest from the due date computed at 10 percent per annum or the sum of \$5.00, whichever is the greater amount. In the event of such delinquency, in order to be eligible to receive any benefits provided by this chapter, a clerk shall remit the late charge with such delinquent payment.

(c) No creditable service shall be granted for any month for which dues are in arrears on December 31, 2008, but payment shall be deemed timely and creditable if such dues and late charges are received by the board on or before the tenth day of the succeeding month. Thereafter, no creditable service shall be granted for any month for which dues are in arrears on the last day of the calendar year during which the dues were due, but payment shall be deemed timely and creditable if such dues and late charges are received by the board on or before the tenth day of the succeeding month following the last day of the preceding calendar year."

SECTION 2.

Said chapter is further amended by revising Code Section 47-14-50, relating to payments to the fund from fines and bonds collected in criminal and quasi-criminal cases, duty of the collecting authority to record and remit, and penalties for late payment, as follows:

"47-14-50.

(a) As used in this Code section, the term 'collecting authority' means, without limitation, any county or state officer, including any judicial officer or employee, or any other person representing or acting on behalf of any court, the state, or a political subdivision of the state who in his or her capacity collects or receives fines or forfeitures as provided in this Code section.

(b) The sum of \$1.75 shall be paid to the board from each fine collected and each bond forfeited and collected in any criminal or quasi-criminal case for violation of state law if the case is tried in any court of this state in which the clerk of such court is eligible for membership in this retirement fund. The collecting authority shall pay such amounts to the board each month or at such other times as the board may provide. Such amounts shall be due on the first day of the month following the month in which they were collected but shall be deemed timely if received by the board on or before the fifteenth day of the month; provided, however, that for purposes of calculating late payment penalties, the due date shall be the first day of the month. It shall be the duty of the collecting authority to keep accurate records of the amounts due the board. Such records may be audited by the board

at any time. The sums remitted to the board under this Code section shall be used for the purposes provided for in this chapter.

(c) If the clerk or other collecting authority whose duty it is to collect and remit moneys to the fund under subsection (b) of this Code section shall fail to remit such moneys within 60 days of the date on which such remittal is due, such moneys shall be delinquent; and there shall be imposed, in addition to the principal amount due, a specific penalty in the amount of 5 percent of the principal amount per month for each month during which the funds continue to be delinquent, provided that such penalty shall not exceed a total of 25 percent of the principal due. In addition to such penalty, interest shall be charged on the delinquent moneys at the rate of 6 percent per annum from the date such moneys became delinquent until they are paid. All moneys which have not been paid to the fund within 60 days of the due date shall be delinquent. By affirmative vote of all members, the board, upon the payment of the delinquent moneys together with interest and for good cause shown, may waive the specific penalty otherwise charged under this subsection."

SECTION 3.

Said chapter is further amended by revising Code Section 47-14-51, relating to payments to the fund from fees collected in certain civil actions and for recording of instruments pertaining to real estate, records, audit of records, and the use of sums remitted, as follows:

"47-14-51.

(a) In addition to all other legal costs, the sum of \$1.00 shall be charged and collected in each civil suit, action, case, or proceeding filed in the superior courts or in any other court of this state in which a clerk eligible for membership in this retirement fund is clerk, including, without limiting the generality of the foregoing, all adoptions, charters, certiorari, applications by a personal representative for leave to sell or reinvest, trade name registrations, applications for change of name, and all other proceedings of a civil nature, filed in the superior courts or other such courts.

(b) In addition to all other legal costs, the sum of 50¢ shall be charged and collected in addition to any other fees or costs for the processing of all instruments pertaining to real estate filed in the superior courts.

(c) The clerks shall collect the fees provided for in subsections (a) and (b) of this Code section, and the fees so collected shall be remitted to the board on a monthly basis or at such time as the board may provide. Such amounts shall be due on the first day of the month following the month in which they were collected but shall be deemed timely if received by the board on or before the fifteenth day of the month; provided, however, that

for purposes of calculating late payment penalties, the due date shall be the first day of the month. It shall be the duty of the clerks to keep accurate records of the amounts due the board under this Code section, and such records may be audited by the board at any time. The sums remitted to the board under this Code section shall be used for the purposes provided in this chapter.

(d) If the clerk or other authority whose duty it is to collect and remit moneys to the fund under subsection (a) of this Code section fails to remit such moneys within 60 days of the date on which such remittal is due, such moneys shall be delinquent; and there shall be imposed, in addition to the principal amount due, a specific penalty in the amount of 5 percent of the principal amount per month for each month during which the funds continue to be delinquent, provided that such penalty shall not exceed a total of 25 percent of the principal due. In addition to such penalty, interest shall be charged on the delinquent moneys at the rate of 6 percent per annum from the date such moneys became delinquent until they are paid. All moneys which have not been paid to the fund within 60 days of the due date shall be delinquent. By affirmative vote of all members, the board, upon the payment of the delinquent moneys together with interest and for good cause shown, may waive the specific penalty otherwise charged under this subsection."

SECTION 4.

Said chapter is further amended by revising Code Section 47-14-72, relating to benefits payable in the event of death before retirement, as follows:

"47-14-72.

(a) In the event of the death of any clerk who has not retired under any of the provisions of this chapter, but who was eligible to do so, the surviving spouse shall receive a monthly sum during his or her lifetime equal to 50 percent of the amount such clerk would have received had he or she retired under subsection (c) of Code Section 47-14-70. In order to receive such benefits, any such spouse must be at least 55 years of age and have been married to such clerk for at least six years immediately preceding the death of such clerk.

(b)(1) Subject to the provisions of paragraph (2) of this subsection, the board is authorized to provide by rule or regulation that in the event of the death of any clerk who has satisfied all requirements for retirement provided by subsection (a) of Code Section 47-14-70 but who dies prior to attaining the age of 55, whether or not such clerk has terminated his or her official duties as clerk, the surviving spouse shall receive a monthly sum during his or her lifetime in an amount not greater than 50 percent of the amount such clerk would have received had he or she retired at age 55 as provided under

subsection (c) of Code Section 47-14-70, the actual percent to be set by the board of trustees in direct relation to the amount determined by the actuary pursuant to paragraph (2) of this subsection. In order to receive such benefits, any such spouse must be at least 55 years of age and have been married to such clerk for at least six years immediately preceding the death of such clerk. Once funded and granted, such benefit shall be irrevocable but shall be subject to the provisions of Code Section 47-14-90.

(2) The board of trustees shall be authorized to provide for such level of benefits as provided in paragraph (1) of this subsection only upon:

(A) The recommendation of the actuary for the board;

(B) The maintenance of the actuarial soundness of the fund in accordance with the standards provided in Code Section 47-20-10 or such higher standards as may be adopted by the board; and

(C) Such other factors as the board deems relevant."

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.